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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,532	10/31/2003	Carlos Alberto Bonilla	200309110-1	2707

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EXAMINER
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BHAT, ADITYA S

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/699,532	<b>Applicant(s)</b> BONILLA, CARLOS ALBERTO	
	<b>Examiner</b> Aditya S. Bhat	<b>Art Unit</b> 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/31/03 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-22 are rejected under 35 U.S.C. 102(a, e) as being anticipated by Hsieh et al. (USPUB 2003/0093238).

With regards to claims 1 and 8 Hsieh et al. (USPUB 2003/0093238) discloses a method & computer readable instructions for managing a testing task, said method comprising:

receiving a plurality of test cases to run, each test case including a plurality of requirements for running said respective test case; (Page 2, Paragraph 0043)

receiving an identification of a group of available test systems on which to run said test cases; (Page 2, Paragraph 0037)

for each test case, determining a list of applicable test systems from said group that satisfy said requirements of said respective test case; (Page 1, Paragraph 0010)

automatically selecting and starting test cases to run based on each respective list and said available test systems so that as many test cases as possible are run in parallel; (Page 1, Paragraph 0013) and

when any test case finishes running and releases a test system to said group of available test systems, automatically selecting and starting an additional test case to run

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if possible based on said respective list and said available test systems. (Page 1, Paragraph 0014)

With regards to claims 2, 9 & 17, Hsieh et al. (USPUB 2003/0093238) discloses for each available test system, determining a plurality of attributes of said respective available test system. (Page 2, Paragraph 0034)

With regards to claims 3, 10, and 18, Hsieh et al. (USPUB 2003/0093238) discloses keeping track of a status of each test case. (Page 1, Paragraph 0016)

With regards to claims 4, 11 and 19, Hsieh et al. (USPUB 2003/0093238) discloses completing said testing task when test cases that could have run on said available test systems have finished running. (Page 3, Paragraph 0048)

With regards to claim 5, 12 and 20 Hsieh et al. (USPUB 2003/0093238) discloses displaying results of said test cases. (Page 3, Paragraph 0046)

With regards to claims 6, 13 and 21 Hsieh et al. (USPUB 2003/0093238) discloses automatically selecting and starting test cases to run includes: for each test case, creating a real test system name file. Hsieh et al. (USPUB 2003/0093238) teaches using "the required testing files" (Page 3, Paragraph 0051) therefore it would be within reasonable interpretation for one skilled in the art to name or some method of identifying these files in order to differentiate between the plurality of files.

With regards to claims 7, 14 and 20 Hsieh et al. (USPUB 2003/0093238) discloses initializing a work directory for each test case. (1000; refer to figure 2)

With regards to claim 15, Hsieh et al. (USPUB 2003/0093238) discloses system comprising:

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a plurality of available test systems; (Refer to figure 1)

a controller for controlling said available test systems;(4000;Refer to figure 1)

and

a test driver for receiving a plurality of test cases, each test case including a plurality of requirements for running said respective test case, wherein said test driver matches said available test systems with said test cases based on said requirements, and wherein said test driver selects and starts test cases to run so that as many test cases as possible are run in parallel based on said available test systems and said requirements, and wherein when any test case finishes, a test system of said finished test case is released to said plurality of available test systems. (Page 1, Paragraph 0011-0014)

With regards to claim 16, Hsieh et al. (USPUB 2003/0093238) discloses when any test case finishes running and releases a test system to said group of available test systems, said test driver selects and starts an additional test case to run if possible based on said respective requirements and said available test systems. (Page 1, Paragraph 0014)

### ***Response to Arguments***

Applicant's arguments filed 10/07/2005 have been fully considered but they are not persuasive.

Applicant is reminded that during patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution, and

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broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

While the meaning of claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allowed. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

In this instance applicant argues that the prior art of record does not teach when any test case finishes running and releases a test system to said group of available test systems, automatically selecting and starting an additional test case to run if possible based on said respective list and said available test systems. (Page 1, Paragraph 0013-0014) Paragraph 0013 discusses an overall testing procedure that does not require a test engineer to select and swap required disks in and out of the computer unit being test. Each swap of a disk could constitute a new test, however since the procedure is done automatically the claims are believed to read on the claimed invention.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Melamed et al (USPUB 2002/0124042) teaches a system and method for synchronizing execution of a test sequence

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aditya S. Bhat whose telephone number is 571-272-2270. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aditya S. Bhat  
December 27, 2005



John Barlow  
Supervisory Patent Examiner  
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